

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

United States of America,)	CR. NO. 4:96-312 (CMC)
)	
v.)	OPINION and ORDER
)	
Andre Smith,)	
)	
Defendant.)	
_____)	

This matter is before the court on Defendant's motion to correct sentence under 28 U.S.C. § 2255, arguing that in light of the Supreme Court's holding in *Johnson v. United States*, 576 U.S. ___, 135 S.Ct. 2551 (2015), Defendant is no longer an armed career criminal and should be resentenced. ECF No. 118. On August 11, 2016, the Government filed a response in support agreeing that, based on *Mathis v. United States*, 579 U.S. ___, 136 S.Ct. 2243 (2016), Defendant's § 2255 motion should be granted and he is entitled to be resentenced without the Armed Career Criminal enhancement. ECF No. 135.

The court **grants** the motion for relief under 28 U.S.C. § 2255. The Judgment Order as to Andre Smith in CR 4:96-312 filed June 12, 1997, is hereby **vacated**, and this matter is set for resentencing on **Wednesday, September 14, 2016, at 3:30 p.m.**

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
August 16, 2016